



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
REGION 12
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July 9, 2018

Gabriel R. Avilés-Aponte, Esq.
#1056 Muñoz Rivera Ave.
Cond. First Federal, Ste. 601
San Juan, PR 00927

Re: Publi-Inversiones de Puerto Rico, dba
El Vocero de Puerto Rico
Case 12-RD-221192

Dear Mr. Avilés-Aponte:

The above-captioned case, petitioning for an investigation and determination of representative under Section 9(c) of the National Labor Relations Act, has been carefully investigated and considered.

Corrected¹ Decision to Dismiss: As a result of the investigation, I find that further proceedings are not warranted and I am dismissing the petition for the following reasons:

On May 31, 2018, Noemi Merced (the Petitioner) filed the petition herein seeking to decertify Unión de Periodistas, Artes Gráficas y Ramas Anexas, Local 33225 (the Union), which is the collective-bargaining representative of the employees of Publi-Inversiones de Puerto Rico, d/b/a El Vocero de Puerto Rico (the Employer) in the following unit:

All employees, but excluding (1) Administration: President, Executive Assistant to the president, Treasurer, Comptroller, Chief Accounting Officer, and seven executive secretaries who work in any department of the Company, Chief Personnel Officer and his or her secretary and security personnel and credit manager; (2) Advertising: Agency Advertisement Sales Director, Direct Advertisement Sales Director, Classified Ads and Notices Sales Director, and Advertisement Salesperson; (3) Circulation: Circulation Department Director, Island Supervisor, Metro Area Subscriptions Supervisor, Metro Area Lighting and Post Supervisor, two (2) Chief Dispatching Officers, four (4) At Large Regional Supervisors, Newspaper Carriers and Heralds; (4) Editorial: Director, Associate Director, and Chief Editor; (5) Production: Production Department Director, (2) Shop Supervisors, (3) Press Supervisors (two during the day and one at night), Maintenance Engineer and Electrical Engineering Supervisor; and (6) all inserters.

¹A paragraph was inadvertently omitted from the original letter dismissing the petition in this matter that was issued on June 12, 2018. The Petitioner and the Employer have filed requests for review of the dismissal of the petition with the Board. This corrected dismissal letter contains a new period for filing a request for review.

Two months earlier, on March 30, 2018, the United States Court of Appeals for the District of Columbia Circuit issued a judgment in *Publi-Inversiones de Puerto Rico, Inc., d/b/a El Vocero de Puerto Rico v. NLRB*, 886 F.3d 142 (2018), enforcing the Board's Decision and Order in *Publi-Inversiones de Puerto Rico, Inc., d/b/a el Vocero de Puerto Rico*, 365 NLRB No. 29 (2017), as modified at 365 NLRB No. 65 (2017). The Court issued its formal mandate in the case on May 23, 2018. The court decree enforced the Board's conclusions that the Employer, as a successor employer to Caribbean International News Corporation, d/b/a El Vocero de Puerto Rico, Inc., violated Section 8(a)(1) and (5) of the Act by failing and refusing to recognize and bargain collectively with the Union as the exclusive collective-bargaining representative of the above-described unit of employees, and by failing and refusing to furnish the Union with requested information that is relevant and necessary to the Union's performance of its functions as the collective-bargaining representative of the Respondent's unit employees. The enforced Board Order requires the Employer, to bargain with the Union with respect to rates of pay, wages, hours and other terms and conditions of employment of the employees in the above unit and, if an understanding is reached, embody such understanding in a signed agreement; to provide the Union with requested information; and to post a remedial Notice to Employees for 60 days.

A Board Order requiring bargaining as a remedy for unfair labor practices bars any challenge to the union's status for a reasonable period of time. *Frank Bros. v. NLRB*, 321 U.S. 702, 705 (1944); *Lee Lumber & Building Material Corp.*, 334 NLRB 399 (2001), *enfd.* 310 F.3d 209 (D.C. Cir. 2002); *Caterair International*, 322 NLRB 64 (1996). Thus, the Supreme Court stated, "... a bargaining relationship once rightfully established must be permitted to exist and function for a reasonable period in which it can be given a fair chance to succeed." *Frank Bros. v. NLRB*, 321 U.S. at 705. The Employer has certified to the Regional Office that it posted the Notice to Employees on April 17, 2018, and provided the Union with requested information on May 2, 2018. On May 2, 2018, the Employer further certified that it was scheduled to start bargaining with the Union on May 14, 2018. At the time the petition herein was filed the 60 day Notice posting period in Case 12-CA-120344 had not expired and even assuming that bargaining started on May 14, 2018, the parties had been bargaining for less than one month. I find that a reasonable period of time for bargaining has not elapsed, and no question concerning representation can be raised at this time.

Accordingly, I am dismissing the petition in this matter.

Right to Request Review: Pursuant to Section 102.67 of the National Labor Relations Board's Rules and Regulations, you may obtain a review of this action by filing a request with the Executive Secretary, National Labor Relations Board, 1015 Half Street SE, Washington, DC 20570-0001. The request for review must contain a complete statement of the facts and reasons on which it is based.

Procedures for Filing Request for Review: A request for review must be received by the Executive Secretary of the Board in Washington, DC, by close of business (**5 p.m. Eastern**

Time) on July 23, 2018, unless filed electronically. If filed electronically, it will be considered timely if the transmission of the entire document through the Agency's website is **accomplished by no later than 11:59 p.m. Eastern Time on July 23, 2018**.

Consistent with the Agency's E-Government initiative, parties are encouraged, but not required, to file a request for review electronically. Section 102.114 of the Board's Rules do not permit a request for review to be filed by facsimile transmission. A copy of the request for review must be served on each of the other parties to the proceeding, as well as on the undersigned, in accordance with the requirements of the Board's Rules and Regulations.

Filing a request for review electronically may be accomplished by using the Efiling system on the Agency's website at www.nlr.gov. Once the website is accessed, click on **E-File Documents**, enter the NLRB Case Number, and follow the detailed instructions. The responsibility for the receipt of the request for review rests exclusively with the sender. A failure to timely file the request for review will not be excused on the basis that the transmission could not be accomplished because the Agency's website was off line or unavailable for some other reason, absent a determination of technical failure of the site, with notice of such posted on the website.

Upon good cause shown, the Board may grant special permission for a longer period within which to file a request for review. A request for extension of time, which may also be filed electronically, should be submitted to the Executive Secretary in Washington, and a copy of such request for extension of time should be submitted to the Regional Director and to each of the other parties to this proceeding. A request for an extension of time must include a statement that a copy has been served on the Regional Director and on each of the other parties to this proceeding in the same manner or a faster manner as that utilized in filing the request with the Board.

Very truly yours,

David Cohen
Regional Director

cc: Office of the Executive Secretary (by e-mail)

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